



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



May 2, 2007

The Honorable Judith Spang, Chairman
Resources, Recreation and Development Committee
NH House of Representatives
Legislative Office Building, Room 305
Concord, NH New Hampshire 03301

Re: SB 143, naming Jericho Mountain state park and establishing ATV and trail bike trails in such park.

Dear Chairman Spang:

Thank you for the opportunity to comment on SB-143, which would allow the Department of Resources and Economic Development's (DRED) Bureau of Trails to waive, following specified consultation with other agencies, certain fine and coarse criteria required by RSA 215-A:43, I & II during the evaluation process for the establishment of all-terrain and trail bike trails at Jericho Mountain State Park in Berlin, New Hampshire. The Department of Environmental Services (DES) believes this bill, as amended on April 5, 2007, will ensure appropriate environmental protection.

DES already plays an active role in siting and monitoring such land development projects, and in complying with the requirements of RSA 215-A:43. Specifically, DES permitting programs established by RSA 482-A ("Fill and Dredge in Wetlands") and RSA 485-A:17 ("Water Pollution and Waste Disposal/Terrain Alteration") are designed to protect wetlands, adjacent uplands, aquatic plant and animal communities, water quality and water quantity associated with wetland impacts, stream crossings, the construction of water-dependent structures and other jurisdictional impacts of land development projects. DES also administers the Wellhead Protection Program in conjunction with local communities, pursuant to RSA 485 ("NH Safe Drinking Water Act"), in an effort to protect both the wellhead and the protective land around it. DES's Dam Safety Program is often involved with land development projects, such as ATV parks, to ensure that storm water impoundments, fire ponds, or flood control dams are carefully designed, built and operated. The Rivers Management and Protection Program, established by RSA 483, is dedicated to protecting third- and fourth-order streams and rivers in New Hampshire, including their tributaries. Should lakes or ponds be involved with such a park, DES administers the Lakes Management and Protection Program pursuant to RSA 483-A. Finally, the State Geologist resides at DES and provides expert consultation on matters related to water quantity/availability, soils, bedrock limitations, and other geologic features at such sites.

When a *Standard Dredge and Fill Application* for a land development project is submitted to DES, the project is immediately checked for the scope and type of wetland impacts. This preliminary review may trigger other programs as well. For example, during the early stages of review, it is determined whether or not a dam will be involved and if it will require a permit from

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DES. Further, if endangered species or habitats are potentially present, the applicant must have first contacted the DRED Natural Heritage Bureau for confirmation. The Department of Cultural Resources will be consulted to check for important historic features at the site. Often these projects involve other DES programs such as drinking water, wastewater disposal, and storm water management. If protected rivers, lakes or ponds are involved, the river and lake advisory programs noted above will offer recommendations to the DES Wetlands Bureau on the project. The wetlands application process incorporates recommendations and decisions from those varied groups before a decision is ultimately delivered. Finally, the DES wetlands program operates under a State Programmatic General Permit program with the U.S. Army Corps of Engineers. All DES Wetlands Bureau applications are reviewed for possible intervention by the Army Corps of Engineers under the authority of the federal Clean Water Act and the Rivers and Harbors Act of 1899, as amended. This review also brings the U.S. Environmental Protection Agency and the U.S. Fish & Wildlife Service into the process. Due to the scope of the Jericho Mountain State Park proposal, it is likely that much of the process described above will be incorporated into the DES review for the new state park.

As SB-143 proposes, the senior leadership of DRED, Fish & Game, DES, and DOT will be provided with the opportunity to collaborate under specific circumstances to consider waiving certain of these criteria for good cause. It should be emphasized that the laws, permits, and advisory programs administered by DES and the federal agencies provide considerable authority to review these projects in detail through a public process, and offer the evaluative tools needed to craft an informed decision on permitted uses of such a property. Further, balancing the environmental impact with anticipated economic gain comprises a typical component of those proceedings. In short, there is currently a "safety net" in place beyond the coarse and fine criteria to evaluate these projects.

Thank you again for this opportunity to comment on SB-143. Please feel free to call me at (603) 271-3503 if you have any questions or need additional information.

Very truly yours,


Thomas S. Burack
Commissioner

Cc: RR&D Committee Members
Rene Pelletier, Assistant Director, DES Water Division
Timothy Drew, Administrator, DES-PIP